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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,879	03/27/2000	JOHN J. HASWELL	AND1P550	3371

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EXAMINER	
MASKULINSKI, MICHAEL C	
ART UNIT	**PAPER NUMBER**
2113	19

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/536,879	HASWELL ET AL.	
	Examiner	Art Unit	
	Michael C Maskulinski	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Non-Final Office Action

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 19, 20, 22-24, and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 9, 12, 15, and 18 of U.S. Patent No. 6,502,102 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following.

Referring to claims 19 and 22, claim 1 of U.S. Patent 6,502,102 discloses parsing one of the components into the one or more words each having a commonly understood meaning; querying the database for the one or more words, wherein for each of the words the database associates a set of one or more computer instructions which, when executed by an automation testing tool causes a computer to perform a function that is related to the commonly understood meaning of the word; retrieving the instruction set corresponding to the word from the data base; and performing the function that is related to the commonly understood meaning of the word using the automated testing

tool. However, claim 1 of U.S. Patent 6,502,102 does not explicitly disclose that the commonly understood meaning is a colloquial meaning where the colloquial meaning of the word is understood by a general population. It would have been obvious to one of ordinary skill at the time of the invention to have the commonly understood meaning of U.S. Patent 6,502,102 be the colloquial meaning of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because by definition colloquial means of or relating to conversation making it common language and the claim language of claim 1 states that the word is understood by a general population. Further, claim 2 of U.S. Patent 6,502,102 discloses that the test script information relates to at least one of steps and actions. However, claim 2 of U.S. Patent 6,502,102 does not explicitly disclose emulating user interactions for testing the functionality of a computer system. It would have been obvious to one of ordinary skill at the time of the invention to have the steps and actions of U.S. Patent 6,502,102 be the emulated user interactions for testing the functionality of a computer system of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because it is well known to use test scripts to test computer systems and to emulate user interactions with a computer system.

Referring to claim 20, claim 7 of U.S. Patent 6,502,102 discloses that the word is from the English language.

Referring to claim 23, claim 1 of U.S. Patent 6,502,102 discloses using one or more words when the receiving, querying, retrieving, and performing are carried out.

Referring to claim 24, claim 9 of U.S. Patent 6,502,102 discloses a computer program embodied on a computer readable medium for providing parsing one of the components into the one or more words each having a commonly understood meaning; querying the database for the one or more words, wherein for each of the words the database associates a set of one or more computer instructions which, when executed by an automation testing tool causes a computer to perform a function that is related to the commonly understood meaning of the word; retrieving the instruction set corresponding to the word from the data base; and performing the function that is related to the commonly understood meaning of the word using the automated testing tool. However, claim 9 of U.S. Patent 6,502,102 does not explicitly disclose that the commonly understood meaning is a colloquial meaning where the colloquial meaning of the word is understood by a general population. It would have been obvious to one of ordinary skill at the time of the invention to have the commonly understood meaning of U.S. Patent 6,502,102 be the colloquial meaning of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because by definition colloquial means of or relating to conversation making it common language and the claim language of claim 24 states that the word is understood by a general population. Further, claim 10 of U.S. Patent 6,502,102 discloses that the test script information relates to at least one of steps and actions. However, claim 10 of U.S. Patent 6,502,102 does not explicitly disclose emulating user interactions for testing the functionality of a computer system. It would have been obvious to one of ordinary skill at the time of the invention to have the steps and actions of U.S. Patent 6,502,102 be

the emulated user interactions for testing the functionality of a computer system of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because it is well known to use test scripts to test computer systems and to emulate user interactions with a computer system.

Referring to claim 29, claim 15 of U.S. Patent 6,502,102 discloses a system comprising logic for parsing one of the components into the one or more words each having a commonly understood meaning; logic for querying the database for the one or more words, wherein for each of the words the database associates a set of one or more computer instructions which, when executed by an automation testing tool causes a computer to perform a function that is related to the commonly understood meaning of the word; logic for retrieving the instruction set corresponding to the word from the data base; and performing the function that is related to the commonly understood meaning of the word using the automated testing tool. However, claim 15 of U.S. Patent 6,502,102 does not explicitly disclose that the commonly understood meaning is a colloquial meaning where the colloquial meaning of the word is understood by a general population. It would have been obvious to one of ordinary skill at the time of the invention to have the commonly understood meaning of U.S. Patent 6,502,102 be the colloquial meaning of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because by definition colloquial means of or relating to conversation making it common language and the claim language of claim 29 states that the word is understood by a general population. Further, claim 16 of U.S. Patent 6,502,102 discloses that the test script information relates to at least one of

steps and actions. However, claim 16 of U.S. Patent 6,502,102 does not explicitly disclose emulating user interactions for testing the functionality of a computer system. It would have been obvious to one of ordinary skill at the time of the invention to have the steps and actions of U.S. Patent 6,502,102 be the emulated user interactions for testing the functionality of a computer system of the present Application. A person of ordinary skill in the art would have been motivated to make the modification because it is well known to use test scripts to test computer systems and to emulate user interactions with a computer system.

3. Claim 22 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 19. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

4. Claims 19-33 would be allowable if a terminal disclaimer was filed to overcome the double patenting rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Maskulinski whose telephone number is (703) 308-6674. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (703) 305-9713. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MM

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SUPERVISORY PATENT EXAMINER
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